

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

October 26, 2018

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Kauai

Annual Renewal of Revocable Permits on the Island of Kauai. See Exhibit 2 for list of Revocable Permits.

HRS CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with the Exemption List for the Department of Land and Natural Resources, approved by the Environmental Council on June 5, 2015, the subject action is exempt from the preparation of an environmental assessment pursuant to Exemption Class 1, “Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing.” See Exhibit 1 attached.

BACKGROUND:

At the end of each calendar year, Land Division reviews its list of current revocable permits issued statewide and determines which ones to recommend to the Board of Land and Natural Resources for renewal for the upcoming year. Generally, those revocable permits in good standing will be recommended for renewal, unless the Board has approved a different disposition for the land covered by a particular permit.

In the past, staff has brought all revocable permits to the Board for renewal in one submittal. At its meeting on December 11, 2015, Item D-14, as amended, the Board directed staff to submit revocable permit renewals by county over four meetings, with an explanation of why a revocable permit is the appropriate disposition and how the rent was set. At its meeting on June 24, 2016, Item D-7, the Board further approved the recommendations of the Department of Land and Natural Resources Revocable Permit Task Force, as amended, requesting all divisions notate any non-compliance issues and pending litigation in the renewal template. In accordance with these directives, staff is submitting the Kauai revocable permits, including the additional information the Board requested.

REMARKS:

The list of revocable permits for Kauai that staff recommends be renewed for 2019 is attached as Exhibit 2. Included in the exhibit are the revocable permit number, permittee names, tax map keys, land trust status, original commencement date of the permit, character of use, land area, annual rent, method by which staff set the rent and the rationale behind the issuance of a revocable permit. General location maps of the revocable permits to be renewed are attached as Exhibit 3.

At its meeting on October 27, 2017, agenda item D-3, the Board approved interim rents for the annual renewal of the revocable permits on Kauai for calendar year 2018.

Staff procured a contract with James Hallstrom of The Hallstrom Group/CBRE, Inc. (Appraiser) for appraisal services to assist in valuing the rent to charge for the use of State lands underlying revocable permits statewide as of January 1, 2018, and ground rent discounts for tenancy and use restriction, if any for 21 of the 60 Kauai revocable permits. The Portfolio Appraisal Report (PAR) was completed on May 9, 2018.

The Appraiser recommends increasing 2019's rents by 2-3%, depending upon demand for the properties, over those indicated in the PAR. Staff recommends setting the 2019 Hawaii revocable permit annual rents by the following categories (see Exhibit 2 for further details):

- Category A: Revocable permits (RPs) valued by the PAR indicating an increase in the annual rent. Staff recommends increasing the 2018 Indicated Annual Market Rent by 10% for 2019.
- Category B: RPs valued by the PAR indicating a decrease in the annual rent. Staff recommends increasing the annual rent by 3% over the PAR's Indicated Annual Market Rent.
- Category C: RPs not valued by the PAR: Staff recommends increasing the 2019 annual rent by 3% over 2018's annual rent.
- Category D: RPs where the PAR's Indicated Annual Market Rent increased by less than 10% over 2018's annual rent. Staff recommends a 3% increase.
- Category E: For special cases, regardless of whether included in the PAR or otherwise. Staff's recommendations for this category are discussed further in Exhibit 2.

With respect to the revocable permits in Category A, the Indicated Annual Market Rents from the PAR increased from a low of 11% to a high of 269%. Staff feels that immediately implementing these rents would cause some permittees to cancel their permits, resulting not only in the loss of revenue, but also forcing the Division to expend resources to maintain these lands. Staff views the 10% annual increases for these permits as a means for the Division to achieve rents closer to market over a short period of time, without causing a major disruption to the occupancy of and revenue generated from these lands.

The following State and County of Kauai agencies were consulted on this action with the results indicated:

Agency:	Comment:
Division of Forestry and Wildlife	No comments
Office of Conservation and Coastal Lands	See Exhibit 4
State Parks	No response by suspense date
Historic Preservation	No response by suspense date
Engineering	No comments
Kauai District Land Office	Comment incorporated into Exhibit 2
Commission on Water Resource Management	No response by suspense date
Division of Conservation and Resources Enforcement	No response by suspense date
Department of Hawaiian Home Lands	No response by suspense date
Department of Agriculture	No response by suspense date
Agribusiness Development Corporation	No response by suspense date
Office of Hawaiian Affairs	See Exhibit 5
COK Planning Department	No objections
COK Department of Public Works	No objections
COK Department of Water Supply	No objections

Since the last renewal of the Kauai revocable permits on October 27, 2017, the following permits have been cancelled:

RP#	Permittee	Area	TMK	Monthly Rent	Cancelled on	Use	Remarks
rp5983	SYNGENTA SEEDS, INC.	43.6 ac.	(4) 1-2-002:040 (por)	\$939.80	11/30/2017	Agricultural (corn seed cultivation)	Replaced by rp7903 issued to Hartung Brothers of Hawaii, LLC
rp7679	WU, DARIUS T. AND VAN T.L.	.14 ac.	(4) 4-5-013:026 & 032	\$53.10	12/31/2017	Parking and landscaping	Voluntarily cancelled
rp7702	YASUTAKE, KENNETH K. & SYLVIA K.	.610	(4) 1-9-002:014	\$16.76	1/31/2018	Pasture and home gardening	Voluntarily cancelled

RECOMMENDATION: That the Board:

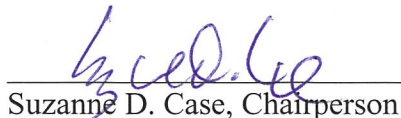
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Approve the continuation of the revocable permits listed in Exhibit 2 on a month-to-month basis for another one-year period through December 31, 2019, except for permits that are in arrears of rental payment for more than 60 days and/or have been approved for forfeiture by a separate Board action. Permits in arrears of rental for 60 days or more and/or approved by the Board for forfeiture shall not be renewed; and
3. Approve no immediate change in current monthly rent for revocable permits as listed in Exhibit 2, provided however, that the Land Board reserves and Delegates to the Chairperson the right authority at any time to review and implement new rental charges for the revocable permits listed in Exhibit 2, effective any time from and after January 1, 2019.

Respectfully Submitted,



Richard T. Howard
Land Agent

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Annual Renewal of Revocable Permits on the Island of Kauai.

Project / Reference No.: Not applicable

Project Location: Various locations on the Island of Kauai

Project Description: Renew existing revocable permits for a term of one year.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with the Exemption List for the Department of Land and Natural Resources, approved by the Environmental Council on June 5, 2015, the subject request for issuance for right-of-entry is exempt from the preparation of an environmental assessment pursuant to Exemption Class 1, "Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

The annual renewal of existing revocable permits on State lands involves the continuation of existing uses on the lands. No change in use is authorized by the renewal.

Cumulative Impact of Planned Successive Actions in Same Place Significant?

No, the requested locations have been used for same uses since the permits were granted.

Action May Have Significant Impact on Particularly Sensitive Environment?

No.

Analysis:

The request pertains to renewing the revocable permits for Kauai. Staff believes that the request would involve negligible or no expansion or change in use of the subject location beyond that previously existing.

Consulted Parties

Agencies listed in submittal.

Recommendation:

That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

EXHIBIT 1

REVOCABLE PERMIT MASTER LIST 2019

Note: Permits showing "0" annual rent may be gratis, or subject to a non-fixed rental amount, e.g. % of net revenue, or amount per event

Doc No.	Type	Permittee Name	TMK	Land Trust Status	Revocable Permit From	Char of Use	Permit Area	2018 Annual Rent	2019 Proposed Rent	Indicated Annual Market Rent	Comments re rent amount and why no long-term disposition
		KAUAI									
rp3827	E	GAY & ROBINSON	(4) 1-8-3; 1-8-4	5(b)	6/20/1965	Pasture	366.639	1,160.16	1,277.20	1,240.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 10%. •Staff to explore the possibility of selling a lease at public auction. Permittee was the lessee under GL3005 (commenced 6/20/44), which encumbered 357.75 acres. 8.889 acres were added to this permit, including a portion of 1-8:004:013. The lands underlying the permit are in the Conservation District. Staff will instruct permittee to apply for a CDUP or provide proof to OCCL that its use/structure is nonconforming.
rp5188	E	COUNTY OF KAUAI	(4) 1-8-007:001-0000	5(b)	8/1/1975	Landscaping - Beautification	1.62	0	0		<ul style="list-style-type: none"> •Rent is gratis. •Permit granted to a governmental entity.

REVOCABLE PERMIT MASTER LIST 2019

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Doc No.	Type	Permittee Name	TMK	Land Trust Status	Revocable Permit From	Char of Use	Permit Area	2018 Annual Rent	2019 Proposed Rent	Indicated Annual Market Rent	Comments re rent amount and why no long-term disposition
rp5567	E	U H COLLEGE TROPICAL AG	(4) 4-2-1:8,10	5(b)	8/15/1977	Agricultural Experimental	32	0	0		<ul style="list-style-type: none"> •Rent is gratis. •Permit granted to a governmental entity. The lands underlying the permit are in the Conservation District. Staff will instruct permittee to apply for a CDUP or provide proof to OCCL that its use/structure is nonconforming.
rp6511	C	GAY & ROBINSON	(4) 1-5-001:001-0001	5(b)	9/1/1987	Pasture	1,625.00	680.62	701.04		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •The permittee is using only a portion of the parcel. The parcel is within the Conservation District. Staff will instruct permittee to apply for a CDUP or provide proof to OCCL that its use/structure is nonconforming.

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rp6842	A	GAY & ROBINSON, INC.	(4) 1-8-6; 1-8-7; 1-8-8	5(b)	4/16/1994	Sugar Cane Cultivation and Pasture	1,777.59	46,405.80	51,046.38	168,800.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 10% over 2018's, notwithstanding the Indicated Annual Market Rent. •Board approved amended cancellation and reissuance of RP reflecting lower rent and smaller area at its meeting on 2/22/13, item D-1. Staff waiting for new CSF map reflecting Veteran's Cemetery expansion and DLNR base yard. Once completed, staff will recalculate rent and explore the possibility of selling a lease at public auction. Small portions of two of the parcels are in the Conservation District. Staff were not able to find any evidence of permittee applying for a CDUP in its files. Staff will inform permittee that it needs to apply for a CDUP.

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Doc No.	Type	Permittee Name	TMK	Land Trust Status	Revocable Permit From	Char of Use	Permit Area	2018 Annual Rent	2019 Proposed Rent	Indicated Annual Market Rent	Comments re rent amount and why no long-term disposition
rp6892	E	MADRID, FRANCES C.	(4) 4-5-008:012-0000	5(b)	11/1/1993	Home Garden	0.165	201.09	480.00		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent to the minimum allowable rent. •The parcel is adjacent to permittee's residence. Staff will continue in its efforts to have the CoK's Housing Agency take over the administration of the Division's residentially zoned parcels. The current disposition is appropriate at this time.

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Doc No.	Type	Permittee Name	TMK	Land Trust Status	Revocable Permit From	Char of Use	Permit Area	2018 Annual Rent	2019 Proposed Rent	Indicated Annual Market Rent	Comments re rent amount and why no long-term disposition
rp6893	A	MADRID, FRANCES C.	(4) 4-5-008:013-0000	5(b)	11/1/1993	Residential	0.146	6,041.40	6,645.54	10,640.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 10% over 2018's, notwithstanding the Indicated Annual Market Rent. •Staff will continue in its efforts to have the CoK's Housing Agency take over the administration of the Division's residentially zoned parcels. The current disposition is appropriate at this time.
rp7256	E	SUNRISE CAPITAL, INC.	(4) 1-9-10:34,35,38;11:7	5(b)	2/1/2001	Parking, Storage and/or Access	0.825	7,174.02	7,891.42	7,850.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 10%. •Staff to explore the possibility of selling a lease at public auction. There was previously no public interest in the parcels when the permit was issued.

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rp7259	A	SANTOS, FRANK & ABIGAIL	(4) 1-9-7:5,7,28,29,30	5(b)	5/1/2001	Plant Nursery, Caretaker Residence, Landscaping and Pasture	16.09	10,164.45	11,180.90	15,960.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 10% over 2018's, notwithstanding the Indicated Annual Market Rent. •Board approved transfer to DOA per Act 90.
rp7302	C	CONTRADES, FRANKLIN M. & PATRICIA	(4) 4-8-008:002-0000	5(b)	7/1/2002	Home Garden	0.344	194.03	199.85		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •This R-4 zoned parcel is adjacent to DHHL lands. It was formerly encumbered by a Certificate of Occupation, which was cancelled by the Board on 6/8/01, item D-4, for failure to keep property taxes current. Staff to explore the possibility of quitclaiming this parcel to DHHL.

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rp7376	A	FERNANDEZ, ROSS K.	(4) 1-2-002:032-0000	5(b)	11/1/2004	Pasture and Hog Pen	44.713	2,256.10	2,481.71	3,390.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 10% over 2018's, notwithstanding the Indicated Annual Market Rent. •Permittee using only a portion of the parcel. At its meeting on 10/28/94, the Board approved the transfer of 20 acres from the subject parcel to DHHL as part of a larger land transfer. No long term disposition of the property is possible until DHHL has completed the subdivision of this parcel.
rp7386	C	NONAKA, DEAN H. AND NICOL U.	(4) 1-9-1:2;1-9-2:2	5(b)	4/26/2004	Pasture	6.247	189.28	194.96		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. • No legal access from public road.

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Doc No.	Type	Permittee Name	TMK	Land Trust Status	Revocable Permit From	Char of Use	Permit Area	2018 Annual Rent	2019 Proposed Rent	Indicated Annual Market Rent	Comments re rent amount and why no long-term disposition
rp7466	A	ABIGANIA, RICHARD	(4) 4-5-15:17,30	Parcel 17, acq. After 8/59; Parcel 30, 5(b)	12/15/2008	Pasture	37.057	1,976.94	2,174.63	2,370.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 10% over 2018's, notwithstanding the Indicated Annual Market Rent. •The permit was issued when GL5344 ended. Staff to seek the Board's approval to sell a lease at public auction.
rp7471	E	COUNTY OF KAUAI	(4) 3-8-005:001-0000	5(b)	3/1/2010	Vehicle Storage	0.344	0	0		<ul style="list-style-type: none"> •Rent is gratis. •Permit granted to a governmental entity.
rp7480	C	ANDRADE, MANUEL H.	(4) 2-3-007:013-0000	5(b)	7/1/2010	Pasture	32.55	201.09	207.12		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Staff will seek Board approval to sell a lease at public auction.

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rp7498	A	KAMANAWA FOUNDATION	(4) 1-9-012:013-0000	5(b)	1/1/2010	Cultural and Educational	1.84	2,103.73	2,314.10	2,800.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 10% over 2018's, notwithstanding the Indicated Annual Market Rent. •Staff to enter into a direct lease with this 501c3 entity.
rp7507	A	THATCHER, STEVE	(4) 4-5-009:043-0000	5(b)	4/1/2010	Commercial - Storage and Display Lot for Inventory	0.172	9,791.62	10,770.78	11,040.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 10% over 2018's, notwithstanding the Indicated Annual Market Rent. •At its meeting on 1/14/94, item F-13, the Board approved the sale of a 35-year lease at public auction and issuance of a revocable permit. Staff to update submittal, if necessary, and resubmit to Board for approval.

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rp7509	E	BANK OF HAWAII, REAL ESTATE MANAGER	(4) 1-9-005:049-0000	5(b)	3/1/2010	Commercial	0.81	23,447.72	25,792.49	25,600.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 10%. •Staff to seek Board approval to sell a lease at public auction.
rp7516	C	MORI, GEORGE M.	(4) 1-8-007:015-0000	5(b)	1/1/2010	Driveway	0.026	201.09	207.12		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Permittee is using only a portion of the premises. Staff to convert to access easement.
rp7521	C	AKI, MICHAEL	(4) 2-5-5:4,5,6	5(b)	8/1/2010	General Agriculture, Employee Residence	7.54	3,356.69	3,457.39		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •At its meeting on 4/12/91, item F-5, as amended, the Board approved the sale of a 20-year lease for general agriculture/employee residence. Staff to update the submittal, if necessary, and resubmit to Board for approval.

REVOCABLE PERMIT MASTER LIST 2019

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rp7584	C	GAY & ROBINSON	(4) 1-8-003:011-0000	5(b)	4/1/2010	Pasture	4.3	201.09	207.12		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Staff will explore the possibility of selling a lease at public auction. The parcel is within the Conservation District, but staff could not find a CDUP in permittee's files. The parcel has been in pasture use since at least 12/1/43. Staff will instruct permittee to apply for a CDUP or provide proof to OCCL that its use/structure is nonconforming.
rp7627	C	SANCHEZ, SR, WILLIAM J.	(4) 4-1-009:017-0002	5(b)	12/15/2008	Pasture	11.796	594.51	612.35		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Board approved the sale of a 15-year lease at public auction and issuance of a revocable permit at its meeting on 5/8/09, item D-2. Staff to prepare auction package.

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rp7628	C	SANCHEZ, SR, WILLIAM J.	(4) 3-9-5:19,20	5(b)	12/15/2008	Pasture	21.33	1,147.48	1,181.90		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Board approved the sale of a 30-year lease at public auction and issuance of a revocable permit at its meeting on 5/8/09, item D-1. Staff to put together auction package for sale of lease.
rp7641	C	SOARES, BERNADINE A. AND UYESONO, BERNADETTE	(4) 4-5-015:045-0000	5(b)	3/1/2011	Storage and Landscaping	0.115	531.05	546.98		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •No access to parcel from public road.

REVOCABLE PERMIT MASTER LIST 2019

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Doc No.	Type	Permittee Name	TMK	Land Trust Status	Revocable Permit From	Char of Use	Permit Area	2018 Annual Rent	2019 Proposed Rent	Indicated Annual Market Rent	Comments re rent amount and why no long-term disposition
rp7664	C	KILLERMANN, ADAM P.	(4) 1-8-005:021-0000	5(b)	5/1/2011	Pasture	45.11	531.05	546.98		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Staff will explore the possibility of selling a lease at public auction. A portion of the parcel is within the Conservation District. The parcel was previously encumbered by GL3707, which commenced 7/1/62. Staff will instruct permittee to apply for a CDUP or provide proof to OCCL that its use/structure is nonconforming.

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rp7669	A	BRUN, TONY T.	(4) 1-8-006:003-0000	5(b)	5/1/2011	Pasture	287.13	1,513.37	1,664.71	1,920.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 10% over 2018's, notwithstanding the Indicated Annual Market Rent. •Board approved the sale of a 20-year lease at public auction at its meeting on 7/23/99, item D-4. Staff to update submittal, if necessary, and resubmit to Board for approval. A portion of the lands underlying the permit are in the Conservation District. Staff will instruct permittee to apply for a CDUP or provide proof to OCCL that its use/structure is nonconforming.

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rp7683	B	KAGAWA-WALKER, MARY A.	(4) 1-6-004:015-0000	5(b)	6/1/2011	Residential and Home Business	0.339	15,421.59	12,360.00	12,000.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over the Indicated Annual Market Rent. •Staff will continue in its efforts to have the Kauai County Housing Agency take over the administration of the Division's residentially zoned parcels.
rp7695	C	KAONA, CLARENCE E.	(4) 5-5-006:005-0000	5(b)	4/1/2012	Taro Cultivation	0.4	201.09	207.12		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •The land is used to grow taro. The parcel's small size makes the sale of a lease impracticable.

REVOCABLE PERMIT MASTER LIST 2019

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Doc No.	Type	Permittee Name	TMK	Land Trust Status	Revocable Permit From	Char of Use	Permit Area	2018 Annual Rent	2019 Proposed Rent	Indicated Annual Market Rent	Comments re rent amount and why no long-term disposition
rp7701	C	VASQUES, STANLEY	(4) 4-6-005:005-0000	5(b)	7/1/2011	Pasture and Home Gardening	2.6	201.09	207.12		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Board approved sale of a 20-year lease at public auction and the issuance of a revocable permit upon expiration of prior lease on 3/13/98, item D-5. Staff to update submittal, if necessary, and resubmit to Board for approval.
rp7710	C	FERNANDES, MICHAEL J.	(4) 4-1-009:008-0000	5(b)	8/1/2011	Pasture	11.746	560.28	577.09		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •The property was previously encumbered by GL5117. Staff to seek Board approval to sell a lease at public auction.

REVOCABLE PERMIT MASTER LIST 2019

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rp7712	C	MARTINS, JEANNETT VIRGINIA	(4) 4-6-005:010-0000	5(b)	7/1/2011	Pasture	6.24	189.28	194.96		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Sale of a 20-year lease at public auction deferred by Board at its meeting on 3/27/98, item D-6. Staff to revise submittal and resubmit to Board for approval.

REVOCABLE PERMIT MASTER LIST 2019

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Doc No.	Type	Permittee Name	TMK	Land Trust Status	Revocable Permit From	Char of Use	Permit Area	2018 Annual Rent	2019 Proposed Rent	Indicated Annual Market Rent	Comments re rent amount and why no long-term disposition
rp7721	B	FALKO PARTNERS, LLC	(4) 4-6-9:28,44,45	5(b)	8/1/2011	Natural Recreational	77.13	3,715.39	3,996.40	3,880.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over the Indicated Annual Market Rent. •The permittee is the current owner of the Valley House property adjacent to the subject parcels. These parcels were formerly a quarry, consisting largely of steep and unusable terrain. The permittee has left the parcels in their natural state, which acts as a buffer between its property and the Makai neighbors. Staff to explore the possibility of selling a lease at public auction.

REVOCABLE PERMIT MASTER LIST 2019

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Doc No.	Type	Permittee Name	TMK	Land Trust Status	Revocable Permit From	Char of Use	Permit Area	2018 Annual Rent	2019 Proposed Rent	Indicated Annual Market Rent	Comments re rent amount and why no long-term disposition
rp7727	C	RAPOZO, MERVIN L. & FAY T.	(4) 4-1-3:48; 4-1-2:23	5(b)	9/1/2011	Pasture	15.309	201.09	207.12		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Sale of a 20-year lease at public auction deferred by Board at its meeting on 3/27/98, item D-6. Staff to revise submittal and resubmit to Board for approval. The lands underlying the permit are in the Conservation District. Staff will instruct permittee to apply for a CDUP or provide proof to OCCL that its use/structure is nonconforming.

REVOCABLE PERMIT MASTER LIST 2019

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Doc No.	Type	Permittee Name	TMK	Land Trust Status	Revocable Permit From	Char of Use	Permit Area	2018 Annual Rent	2019 Proposed Rent	Indicated Annual Market Rent	Comments re rent amount and why no long-term disposition
rp7729	C	FALKO PARTNERS, LLC	(4) 4-6-009:046-0000	5(b)	8/1/2011	Pasture	6.5	194.03	199.85		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Board approved the sale of a 20-year lease at public auction and issuance of a revocable permit on 1/28/00, item D-9, and amended the prior action on 2/9/01, item D-1, authorizing a 1-year holdover of GL5116 and the issuance of a revocable permit upon its expiration. Staff to prepare auction package for sale of lease.
rp7734	C	JASPER, RICHARD	(4) 4-5-013:029-0000	5(b)	9/1/2011	Landscaping and Parking	0.113	788.9	812.57		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Permittee owns adjacent parcels. No ingress or egress to or from the parcel is allowed from State highway per DOT.

REVOCABLE PERMIT MASTER LIST 2019

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Doc No.	Type	Permittee Name	TMK	Land Trust Status	Revocable Permit From	Char of Use	Permit Area	2018 Annual Rent	2019 Proposed Rent	Indicated Annual Market Rent	Comments re rent amount and why no long-term disposition
rp7739	C	LANEY, LANCE	(4) 5-4-2:33, 42	5(b)	9/1/2011	Pasture	7.3	194.03	199.85		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Board approved the sale of a 20-year lease at public auction and issuance of a revocable permit on 1/28/00, item D-9, and amended the prior action on 2/9/01, item D-1, authorizing a 1-year holdover of GL5122 and the issuance of a revocable permit upon its expiration. Staff to prepare auction package for sale of lease. Both parcels are within the Conservation District. The parcels were originally encumbered by GL2702, which commenced 1/5/39. Staff will instruct permittee to apply for a CDUP or provide proof to OCCL that its use/structure is nonconforming.

REVOCABLE PERMIT MASTER LIST 2019

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rp7744	E	SUMMERS, TOM	(4) 4-5-008:004-0000	5(b)	9/1/2011	Maintenance and Beautification	0.402	203.53	480.00		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent to the minimum allowable. •The permittee owns the adjacent property and uses this parcel for beautification purposes. Staff will continue its efforts to have the CoK's Housing Agency take over the administration of the Division's residentially zoned parcels. Prior to any turnover, staff will consult with SHPD concerning any cultural and historic properties on the site.

REVOCABLE PERMIT MASTER LIST 2019

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Doc No.	Type	Permittee Name	TMK	Land Trust Status	Revocable Permit From	Char of Use	Permit Area	2018 Annual Rent	2019 Proposed Rent	Indicated Annual Market Rent	Comments re rent amount and why no long-term disposition
rp7749	C	JURASSIC KAHILI RANCH LLC	(4) 5-1-2:4,6	Parcel 4, 5(b); Parcel 6, 5(a)	9/1/2011	Pasture	200.93	189.28	194.96		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •No legal access to parcel, permittee owns adjacent parcel. At its meeting on 8/10/90, item F-19, the Board set aside these parcels to DOFAW. At its meeting on 3/25/04, item D-7, the Board rescinded the set aside due to a survey backlog and lack of access to parcels. Both parcels are within the Conservation District, and Staff could find no evidence of permittee applying for a CDUP in its files. Staff will instruct permittee to apply for a CDUP. Current disposition appropriate in the event DOFAW requires the property.

REVOCABLE PERMIT MASTER LIST 2019

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Doc No.	Type	Permittee Name	TMK	Land Trust Status	Revocable Permit From	Char of Use	Permit Area	2018 Annual Rent	2019 Proposed Rent	Indicated Annual Market Rent	Comments re rent amount and why no long-term disposition
rp7753	C	SPECIALTY LUMBER, INC.	(4) 4-5-011:029-0000	Acq. After 8/59	9/1/2011	Parking and Landscaping	0.016	189.28	194.96		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Staff to cancel RP for this road right of way.
rp7770	C	CHING, LINCOLN Y.T.	(4) 4-5-015:029-0000	5(b)	9/1/2011	Pasture	0.987	172.59	177.77		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •At its meeting on 4/8/88, item F-8, the Board approved the sale of a 15-year lease. Staff to update the submittal, if necessary, and resubmit to Board for approval.

REVOCABLE PERMIT MASTER LIST 2019

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Doc No.	Type	Permittee Name	TMK	Land Trust Status	Revocable Permit From	Char of Use	Permit Area	2018 Annual Rent	2019 Proposed Rent	Indicated Annual Market Rent	Comments re rent amount and why no long-term disposition
rp7785	A	JINTA, LLC	(4) 1-9-010:042-0000	5(b)	9/1/2011	Landscaping and Business Parking	0.281	1,264.77	1,391.25	1,890.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 10% over 2018's, notwithstanding the Indicated Annual Market Rent. •Jinta, LLC has sold property next door and KDLO is in the process of cancelling this RP and issuing a new RP to new land owner. New owner understands that in future, this parcel will go to public auction for a long term lease.
rp7790	C	CHING, LINCOLN Y.T.	(4) 4-5-15:10, 28	5(b)	9/1/2011	Pasture	30.353	560.28	577.09		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Board approved the sale of a 20-year lease at public auction at its meeting on 9/14/07, item D-1. Staff to prepare auction package for sale of lease.

REVOCABLE PERMIT MASTER LIST 2019

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rp7795	C	ISHIDA, ERIC AND GRACINDA	(4) 4-6-008:030-0000	5(b)	9/1/2011	Landscaping and Maintenance	0.005	196.10	201.98		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •No access to parcel from public road, permittee using only a portion of the parcel.
rp7798	C	AJIMURA, CLYDE	(4) 1-9-005:038-0000	5(b)	11/1/2011	Home Garden	0.232	650.53	670.05		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Vacant parcel zoned General Commercial in Hanapepe. Staff will seek Board approval to sell a lease at public auction.

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rp7805	A	GARDEN ISLE RACING ASSOCIATION	(4) 1-2-002:36, 40	5(b)	2/1/2012	Motorized Sports	80.5	1,964.03	2,160.43	4,480.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 10% over 2018's, notwithstanding the Indicated Annual Market Rent. •Permittee uses only a portion of both parcels. The dragstrip was built by the State DOT using an appropriation by the Legislature as part of the Kauai Recreational Facility Phase I. It was to be set aside to the CoK, but the County declined due to its reluctance to accept control and management of the site. The lands underlying the permit are in the Conservation District. Staff will instruct permittee to apply for a CDUP or provide proof to OCCL that its use/structure is nonconforming.

REVOCABLE PERMIT MASTER LIST 2019

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rp7818	A	NUNES-HOOPII, DONNA	(4) 4-5-011:010-0000	5(b)	7/1/2012	Residential	0.189	4,072.14	4,479.35	13,880.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 10% over 2018's, notwithstanding the Indicated Annual Market Rent. •Staff will continue in its efforts to have the CoK's Housing Agency take over the administration of the Division's residentially zoned parcels. The current disposition is appropriate at this time.
rp7821	C	HASHIMOTO, JUNEDALE	(4) 5-3-007:005-0000	5(b)	2/1/2012	Residential	1.735	5,944.45	6,122.78		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Staff will continue in its efforts to have the CoK's Housing Agency take over the administration of the Division's residentially zoned parcels. The current disposition is appropriate at this time.

REVOCABLE PERMIT MASTER LIST 2019

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Doc No.	Type	Permittee Name	TMK	Land Trust Status	Revocable Permit From	Char of Use	Permit Area	2018 Annual Rent	2019 Proposed Rent	Indicated Annual Market Rent	Comments re rent amount and why no long-term disposition
rp7833	B	AIWOHI, LORRIN J.	(4) 4-6-6:28, 29	5(b)	8/1/2013	Pasture	9.17	2,453.05	2,435.95	2,365.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over the Indicated Annual Market Rent. •At its meeting on 5/15/98, item D-5, the Board authorized the sale of a 20-year lease and the issuance of a Revocable Permit to R.J. Farias. Subsequent Board action on 9/25/98, item D-24, rescinded approval of the RP and approved the issuance of a new rp to K.C. Ching. Further Board action on 2/26/99, item D-12 rescinded the approval of the rp issued to Mr. Ching and approved the issuance of an rp to Mr. Edwin Martin. Staff to update submittal re sale of lease at auction, if necessary, and resubmit to Board for approval.

REVOCABLE PERMIT MASTER LIST 2019

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rp7840	C	HORNER, DARRELL	(4) 1-9-007:046-0000	5(b)	5/1/2014	Aquaculture	1	509.12	524.39		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Parcel lacks legal access from public road. Permittee's previous permit was cancelled so the Div. of Aquatic Resources could develop a consolidation and resubdivision master plan for State property. Lack of funding prevented this from happening and the permit was reissued.
rp7842	C	SOUZA, VERNON AND CHARLETTE	(4) 4-1-002:020-0000	5(b)	12/1/2013	Pasture	3.99	516.43	531.92		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Staff will seek Board approval to sell a lease at public auction. The lands underlying the permit are in the Conservation District. Staff will instruct permittee to apply for a CDUP or provide proof to OCCL that its use/structure is nonconforming.

REVOCABLE PERMIT MASTER LIST 2019

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rp7845	C	MEDEIROS, WILLIAM D.	(4) 2-7-4:11,12	5(b)	12/2/2013	Pasture	5.916	516.43	531.92		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Staff will seek Board approval to sell a lease at public auction.
rp7848	A	G & K KALAHEO SHELL REPAIR SHOP, LLC.	(4) 1-9-005:007-0000	5(b)	2/14/2014	Automotive Repair Shop	0.158	12,059.91	13,265.90	14,280.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 10% over 2018's, notwithstanding the Indicated Annual Market Rent. •Staff will seek Board approval to sell a lease at public auction.
rp7865	C	KAPAA KI-AKIDO CLUB, INC.	(4) 4-1-009:018-0000	5(b)	8/1/2015	Clubhouse	0.358	501.82	516.87		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Staff to enter into a direct lease with Hawaii Ki Federation, a 501c3 entity.

REVOCABLE PERMIT MASTER LIST 2019

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rp7870	C	MANUEL, CHARMAINE	(4) 1-3-002:030-0000	5(b)	4/1/2016	Pasture	0.4	495	509.35		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •Wedge-shaped, residentially zoned remnant parcel from GL4222 to Kekaha Sugar Company. Staff will continue in its efforts to have the CoK's Housing Agency take over the administration of the Division's residentially zoned parcels, although it is not clear if this parcel is buildable. The current disposition is appropriate at this time.
rp7872	D	SILVA, KEITH A.	(4) 1-2-006:018-0000	5(b)	4/1/2016	Pasture	50.264	3,103.10	3,196.19	3,160.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent 3% over 2018's. •Sloped rocky hillside parcel with only a limited area suitable for pasture use. Staff will explore the possibility of selling a lease at public auction.

REVOCABLE PERMIT MASTER LIST 2019

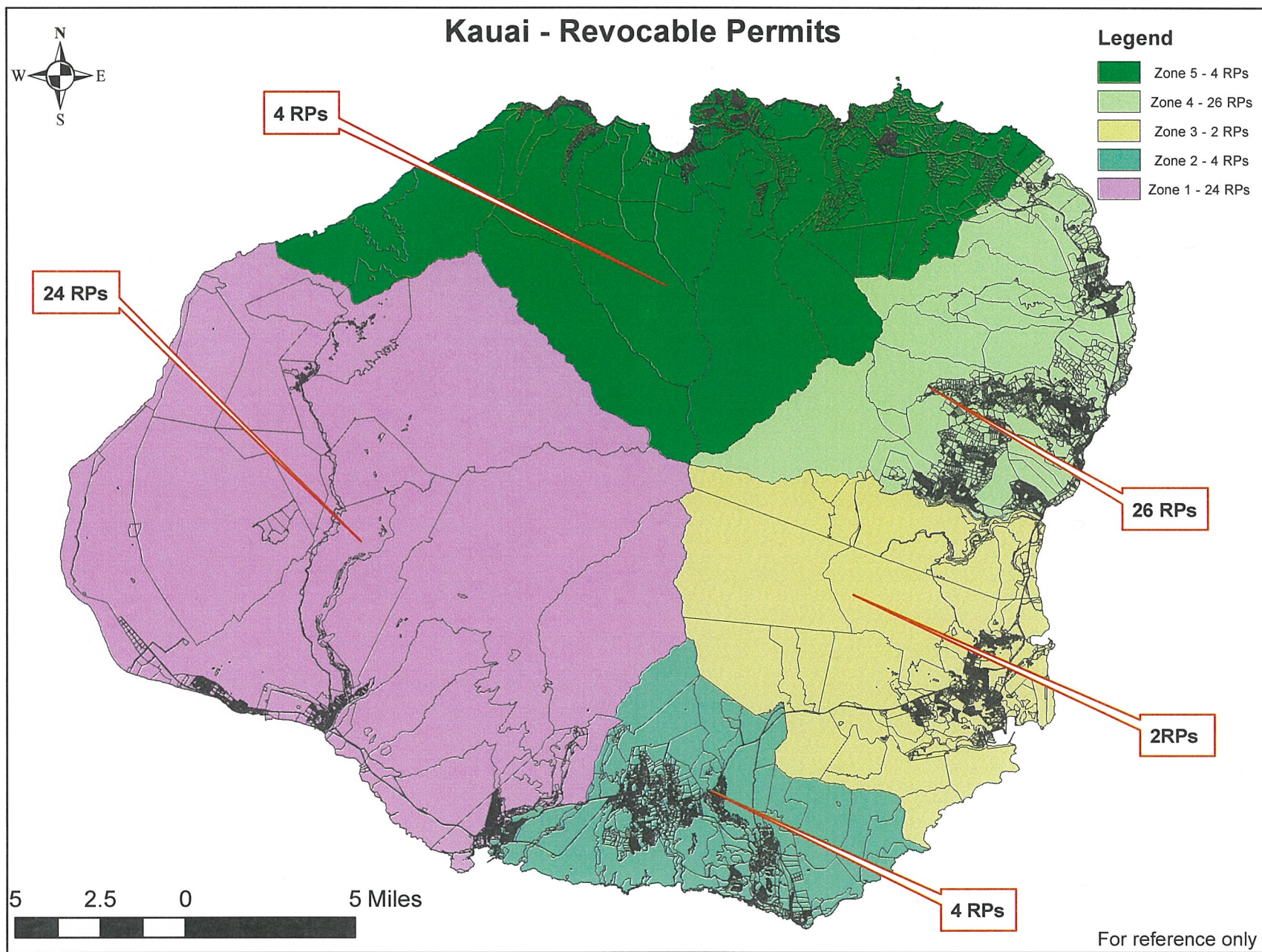
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Doc No.	Type	Permittee Name	TMK	Land Trust Status	Revocable Permit From	Char of Use	Permit Area	2018 Annual Rent	2019 Proposed Rent	Indicated Annual Market Rent	Comments re rent amount and why no long-term disposition
rp7881	C	FERNANDES, MICHAEL	(4) 4-1-009:020-0000	5(b)	6/1/2014	Pasture	25.60	494.51	509.35		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •The permittee was the lessee under GL5584, which ended 5/26/14. Staff will seek Board approval to sell a lease at public auction. The lands underlying the permit are in the Conservation District. Staff will instruct permittee to apply for a CDUP or provide proof to OCCL that its use/structure is nonconforming.
rp7882	C	FERNANDES, MICHAEL	(4) 4-1-9:7; 4-1-10:16	5(b)	6/1/2014	Pasture	7.452	494.51	509.35		<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over 2018's. •The permittee was the lessee under GL5582, which ended 5/26/14. Staff will seek Board approval to sell a lease at public auction.

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rp7897	B	ENOKA, KATHERINE	(4) 1-9-005:053-0000	5(b)	2/1/2017	Business	0.136	13,605.06	13,997.70	13,590.00	<ul style="list-style-type: none"> •2018 rent was increased 1.5% over the previous year. Staff recommends increasing 2019's rent by 3% over the Indicated Annual Market Rent. •At its meeting on 4/22/16, under agenda item D-1, the Board approved the sale of a lease at public auction.
rp7903	B	HARTUNG BROTHERS OF HAWAII, LLC	(4) 1-2-002:040-0000	5(b)	12/1/2017	Agricultural Purposes	60.2	15,833.64	14,183.10	13,770.00	<ul style="list-style-type: none"> •Rent approved by Board at its meeting on 2/4/2017, agenda item D-2. Staff recommends increasing 2019's rent by 3% over the Indicated Annual Market Rent. •This revocable permit replace rp5983 issued to Pride Company, Inc. Board approved transfer to DOA per Act 90.
rp7908	E	COUNTY OF KAUAI	(4) 2-8-017:001-A	5(b)	9/22/2017	Portable lifeguard tower site	0.0028	0	0		<ul style="list-style-type: none"> •Gratis •Issued to a governmental agency. A short-term disposition is more appropriate as the lifeguard station might need to be relocated due to wave action.



DAVID Y. IGE
GOVERNOR OF
HAWAII



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LAND DIVISION

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DEPARTMENT OF LAND AND NATURAL RESOURCES

OFFICE OF CONSERVATION AND COASTAL LANDS
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CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
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CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF: OCCL: AJR

MEMORANDUM

COR: KA-19-32

AUG 30 2010

TO: Richard T. Howard, Land Agent
DLNR – Land Division (Kaua'i)

FROM: Samuel J. Lemmo, Administrator
DLNR – Office of Conservation and Coastal Lands

SUBJECT: **REVOCABLE PERMIT REVIEW – ISLAND OF KAUA'I**
Various Districts, Island of Kaua'i
TMK: Various (listed in document)

Dear Mr. Howard,

The Office of Conservation and Coastal Lands (OCCL) is in receipt of your memo regarding a review of Revocable Permits (RP) located on State Lands on the Island of Kaua'i.

A number of RPs were previously determined to be located within the Conservation District, comments and regulatory compliance for each RP were presented via **COR: KA-16-253**, **COR: KA-17-57**, and **COR: KA-18-35**. The OCCL requests that you please review those correspondence for OCCL requirements or comments for the following RPs:

RP3827; RP5983; RP6511; RP6842; RP7584; RP7664; RP7727; RP7749; RP7805; RP7842; RP5567; RP7669; and RP7881.

The OCCL would like to take this opportunity to remind those persons or entities that utilize parcels located within the SLU Conservation District that landowners are required to inform this office of any proposed land uses that may occur in the Conservation District.

If you have any questions regarding this correspondence please contact Alex J. Roy, M.Sc. of our Office of Conservation and Coastal Lands staff at 808-587-0316 or via email at alex.j.roy@hawaii.gov

CC: Chairperson
Russell Y. Tsuji, Administrator – Land Division

EXHIBIT "4"



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DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

HRD18-8284B

September 5, 2018

Richard T. Howard
Land Agent
Department of Land and Natural Resources, Land Division
P.O. BOX 621
Honolulu, HI 96809

Re: Annual Renewal of Revocable Permits for Kaua'i

Aloha e Mr. Howard:

The Administration of the Office of Hawaiian Affairs (OHA) received your draft submittal to the Board of Land and Natural Resources (BLNR), dated August 15, 2018. The Department of Land and Natural Resources (DLNR) Land Division is recommending to the BLNR renewal of 61 month-to-month revocable permits (RPs) held in Kaua'i County for a period of one year. The 2019 Revocable Permit Master List (master list) included as Exhibit 2 of the draft submittal, provides a table of the subject RPs. At this time, there is insufficient information to determine whether some of these requested renewals should be approved by the BLNR. OHA again reiterates, as has been done in prior comment letters and testimonies regarding annual renewals, that the master list fails to include pertinent information regarding some of the RPs as required by the DLNR Revocable Permit Task Force (Task Force) recommendations adopted by the BLNR on June 24, 2016. The BLNR further confirmed that a "checklist" be applied to both new and renewed RPs to ensure that the Task Force's recommendations are considered during RP renewals.

First, the submittal and its master list fail to provide timetables for the conversion of a number of RPs to alternative long-term dispositions, as called for in the Task Force recommendations adopted by the BLNR. For many of the RPs that are being considered for sale at public auction, or for pending leases or other long-term dispositions on the master list (RP3827, RP6842, RP7466, RP7480, RP7498, RP7507, RP7509, RP7516, RP7521, RP7584, RP7627, RP7628, RP7664, RP7669, RP7701, RP7710, RP7712, RP7721, RP7727, RP7729, RP7739, RP7753, RP7770, RP7785, RP7790, RP7798, RP7833, RP7842, RP7845, RP7848, RP7865, RP7872, RP7881, RP7882, and RP7897), no such timetable is provided. OHA cited many of these RPs in our October 27, 2017 testimony to the BLNR regarding the 2018 annual renewal of RPs for Kaua'i County. OHA observes that the details in the comments column of the master list for these RPs have not changed in the past two years of submittals for the County of Kaua'i annual

EXHIBIT "5"

revocable permit renewals. As noted in our 2017 testimony, several of these permits have been under RP status for decades, and certain permitted parcels appear to have been approved for lease at public auction for years.

For example, RP7790 and RP7833 were approved for lease at public auction in 2007 and 1998, respectively. At the BLNR meeting on October 27, 2017, Chair Suzanne Case said that she would work with staff to see if she can find a way to assist with bringing these latter two RPs (RP7790 and RP7833) to public auction.¹ However, the comment column for these RPs in this year's master list makes no mention of follow up nor does it describe any challenges to executing a public auction. Without any timetable or additional details provided for the conversion of these aforementioned RPs, and with seemingly limited progress over the past two years, the prioritization of RP conversions appears to be consistently ignored in a way that relegates the State's fiduciary responsibilities and prospective monetary gains as there is potential for significant additional and stable revenue to be realized from RP conversions to longer-term dispositions. Accordingly, OHA strongly recommends that all RPs contemplated for conversion to an alternative, long-term disposition include a conversion timetable, detailed status reports, challenges to conversions (i.e., lack of manpower), and/or other information that can demonstrate whether or how their conversion is appropriately progressing.

Second, the draft submittal does not appear to comply with the BLNR's adopted Task Force recommendations calling for additional relevant details regarding RPs with apparent unusual circumstances. OHA finds this particularly relevant to RP7739. During the BLNR's October 27, 2017 meeting, the discussion regarding this RP stated that the permittee was cited for a violation of having illegal structures on State land. The minutes further detail that Land Division staff agreed to do a follow up inspection to see if the permittee had complied. However, the comment column for this RP on this year's master list makes no mention about the violation, illegal structures, or any follow up inspection. In fact, the comment is the same comment as was printed in last year's master list which states that the parcel was approved for public auction on January 28, 2000, and that "staff will instruct permittee to apply for a [Conservation District Use Permit] or provide proof to the OCCL [Office of Conservation and Coastal Lands] that its use/structure is nonconforming." Considering there has been no change in the comment column regarding this RP from last year to this year, OHA recommends that further detail be provided to show whether and how the violations are being corrected and that consequences (i.e., RP suspension or revocation) be in place for non-compliance.

Third, compliance concerns continue to exist for RPs involving conservation district lands (RP3827, RP5567, RP5983, RP6511, RP6842, RP7584, RP7664, RP7669, RP7727, RP7729, RP7739, RP7749, RP7805, RP7842, and RP7881). Many of these same RPs were cited in OHA's October 2017 testimony to the BLNR for uses that appeared to be subject to permitting and other regulation under conservation district rules detailed in Hawai'i Administrative Rules Chapter 13-5. In last year's master list, the comment column for these RPs issued to parcels within conservation districts assured that "staff will instruct permittee[s] to apply for a [Conservation

¹ See Board of Land and Natural Resources, *Meeting of Minutes of the Board of Land and Natural Resources* (October 27, 2017), <https://dlnr.hawaii.gov/wp-content/uploads/2018/03/171027-minutes.pdf>.

District Use Permit] or provide proof to OCCL [the Office of Conservation and Coastal Lands] that its use/structure is nonconforming.” This is the same comment made in this year’s master list.

The OCCL itself provided a list to the DLNR Land Division last year on September 6, 2017, noting that RP5567, RP7669, and RP7881 have “no permits found in OCCL database.” OCCL further noted that “permittees/applicants are required to inform this office [OCCL] of any proposed land uses that may occur in the Conservation District.” These RPs remain on the annual revocable permit renewal list without any recognition of whether and how these now long-standing compliance concerns have been addressed. OHA recommends that a deadline be established for OCCL compliance and that RP suspension or revocation be proposed for lack of timely compliance with conservation district rules. Without a deadline, there is little to assure the BLNR or the public that the permittees and Land Division staff will in fact work to bring these RPs and their covered uses into compliance with laws protecting our most environmentally and culturally significant lands and resources.

Fourth, OHA again asks that RP renewal recommendations also include an indication as to the “ceded” and public land trust status of each parcel. OHA has a substantial stake in the appropriate use and disposition of the State’s “ceded” lands, which were acquired without the consent of the Native Hawaiian people, and most of which are classified as public land trust lands held in trust for the benefit of Native Hawaiians and the public. As a trustee of the “ceded” lands and the public land trust, the BLNR also has a specific fiduciary and moral obligation with respect to the use and disposition of such lands. Accordingly, an indication of the ceded and public land trust status of parcels being recommended for RPs may assist both OHA and the BLNR in applying an appropriate level of scrutiny. During the October 27, 2017 BLNR meeting, Land staff stated that all RPs on the 2017 master list were for ceded lands and that staff tries “as best as we can” to address OHA’s concerns. If the comment about ceded land status is true, a simple sentence within the submittal would suffice to satisfy our request regarding ceded land status.

Finally, OHA also reiterates its request that RP renewal recommendations include explicit, substantive considerations relevant to the BLNR’s primary, public trust duties to conserve and protect Hawai‘i’s natural and cultural resources. Such duties include the fulfillment of the constitutional mandate that the state “conserve and protect Hawai‘i’s . . . natural resources . . . and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the state. All public natural resources are held in trust by the state for the benefit of the people.”² The BLNR also holds a constitutional duty to protect cultural resources, as well as the practices which rely upon them.³ Accordingly, OHA urges the provision of additional express information for all RP renewal recommendations, consistent with the BLNR’s public trust duties, such as: the date of the last affirmative review of permit holders’ compliance with permit terms; an indication as to any culturally or environmentally significant or sensitive areas or resources within or adjacent to each RP parcel; and an indication of any previous or potential future uses within or adjacent to each parcel which may result in cumulative impacts to natural and cultural resources.

² HAW. CONST. ART. XI SEC. 1

³ HAW. CONST. ART. XII SEC. 7; Ka Pa‘akai o ka ‘Āina v. Land Use Comm’n, 94 Hawai‘i 31 (2000).

In summary, the draft master list does not provide sufficient information for the BLNR to make an informed decision on whether to approve or appropriately condition the renewal of the listed RPs; fails to include additional information relevant to the BLNR's fiduciary responsibilities to the ceded lands trust, the public lands trust, and the public trust; and thereby precludes OHA and other interested agencies and the public to provide more specific comments on them. As requested in past comment letters and testimonies, OHA urges that the RP master list be revised to more fully reflect the Task Force recommendations adopted by the BLNR, as well as include additional information needed by the BLNR to uphold its trust duties.

Mahalo for the opportunity to comment. Should you have any questions, please contact Kamakana Ferreira, OHA Compliance Specialist, at (808) 594-0227 or kamakanaf@oha.org.

‘O wau iho nō me ka ‘oia ‘i‘o,

A handwritten signature in black ink, appearing to read "Kamana'opono M. Crabbe", with a horizontal line extending to the right.

Kamana'opono M. Crabbe, Ph.D.
Ka Pouhana, Chief Executive Office

KC:kf

CC: Dan Ahuna, Ke Kua 'O Kauai, OHA Trustee